

Montana Water Court  
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**FILED**  
07/20/2023  
Sara Calkins  
CLERK  
Montana Water Court  
STATE OF MONTANA  
By: D'Ann CIGLER  
43B-0682-R-2022  
Lambert, Kathryn  
15.00

MONTANA WATER COURT, YELLOWSTONE DIVISION  
YELLOWSTONE RIVER ABOVE AND INCLUDING BRIDGER CREEK BASIN  
BASIN 43B  
PRELIMINARY DECREE

\* \* \* \* \*

CLAIMANTS: Point of Rocks Ranch LLC

OBJECTORS: Point of Rocks Ranch LLC

**CASE 43B-0682-R-2022**

43B 194343-00

43B 194344-00

43B 194822-00

43B 194823-00

43B 194824-00

**NOTICE OF FILING OF MASTER'S REPORT**

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusion of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days to be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must mail a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

**MASTER'S REPORT**

Point of Rocks Ranch LLC objected to its claims 43B 194343-00, 43B 194344-00, 43B 194822-00, 43B 194823-00 and 43B 194824. On October 28, 2022 Point of Rocks Ranch LLC filed Notice Of Filing Of Requested Corrections. On January 10, 2023 an Order Rejecting

Settlement Concerning The Flow Rates And Setting Filing Deadline. On June 26, 2023 Claimant Point Of Rocks Ranch LLC's Additional Flow Rate Information was filed. These documents are viewable in the Court's FullCourt Enterprise case management system.

#### APPLICABLE LAW

A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content pursuant to section 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973. This is the burden of proof for every assertion that a claim is incorrect including for claimants objecting to their own claims. Rule 19, W.R.Adj.R.

#### FINDINGS OF FACT

1. For claims 43B 194343-00 and 43B 194344-00, the Preliminary Decree includes the following remark:

THE TIMELY FILED OBJECTION OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION WAS AMENDED BY AGREEMENT OF THE PARTIES TO INCLUDE PLACE OF USE. BECAUSE THIS ELEMENT WAS NOT INCLUDED ON THE OBJECTION LIST, ANY WATER USER WHOSE RIGHTS MAY BE ADVERSELY AFFECTED BY ENFORCEMENT OF THIS CHANGE MAY PETITION THE APPROPRIATE COURT FOR RELIEF OR MAY FILE AN OBJECTION AT THE PRELIMINARY DECREE.

This remark provides notice of these changes made during the Temporary Preliminary Decree proceedings. The remarks do not raise unresolved issues which need to be addressed. There are no proceedings required for these remarks. The remarks should be removed as having served their notice purposes.

2. For claims 43B 194822-00, 43B 194823-00, and 43B 194824-00, the Preliminary Decree states that the flow rate for each is 444.31 GPM. The flow rate for each should be 1.50 CFS.

For each of these claims, the Preliminary Decree states that the maximum acres irrigated is 26.00 and the place of use is:

<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
26.00	NE	19	7S	7E	PARK

The maximum acres irrigated should be 39.50 and the place of use should be:

<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
1.80	SESE	18	7S	7E	PARK
28.20	NE	19	7S	7E	PARK
<u>9.50</u>	NWNW	20	7S	7E	PARK
39.50					

The Preliminary Decree includes the following remark on each of these claims:

POINT OF DIVERSION WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

This remark provides notice of this change made prior to issuance of the Preliminary Decree.

The remark does not raise an unresolved issue which needs to be addressed. The remark should be removed as having served its notice purpose.

#### CONCLUSION OF LAW

The settlement filed by the claimant is sufficient to contradict and overcome the prima facie claims.

#### RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusion of Law, this Master recommends that the Court make the changes specified in the Findings of Fact to correct the Preliminary Decree for this Basin. A Post Decree Abstract of Water Right Claim for each claim is served with this Report to confirm the recommended changes have been made in the state's centralized record system.

#### **ELECTRONICALLY SIGNED AND DATED BELOW**

#### Service Via Email:

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**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK**  
**BASIN 43B**

**Water Right Number:** 43B 194343-00 STATEMENT OF CLAIM  
**Version:** 4 -- POST DECREE  
**Status:** ACTIVE

**Owners:** POINT OF ROCKS RANCH INC  
3600 BUTLER RD  
REISTERSTOWN, MD 21136 4813

**Priority Date:** MAY 29, 1902

**Type of Historical Right:** FILED

**Purpose (use):** IRRIGATION

**Irrigation Type:** FLOOD

**\*Flow Rate:** 1.50 CFS

**\*Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

**Climatic Area:** 4 - MODERATELY LOW

**\*Maximum Acres:** 39.50

**Source Name:** ROCK CREEK

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SESWNW	19	7S	7E	PARK

**Period of Diversion:** MAY 1 TO NOVEMBER 1

**Diversion Means:** HEADGATE

**Ditch Name:** STEWART DITCH

**Period of Use:** MAY 1 TO NOVEMBER 1

**\*Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	1.80		SESE	18	7S	7E	PARK
2	28.20		NE	19	7S	7E	PARK
3	9.50		NWNW	20	7S	7E	PARK
<b>Total:</b>	39.50						

**Remarks:**

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

194343-00      194822-00      194823-00      194824-00

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK**  
**BASIN 43B**

**Water Right Number:** 43B 194344-00 STATEMENT OF CLAIM  
**Version:** 4 -- POST DECREE  
**Status:** ACTIVE

**Owners:** POINT OF ROCKS RANCH INC  
3600 BUTLER RD  
REISTERSTOWN, MD 21136 4813

**Priority Date:** JULY 10, 1895

**Type of Historical Right:** FILED

**Purpose (use):** IRRIGATION

**Irrigation Type:** FLOOD

**\*Flow Rate:** 2.26 CFS

**\*Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

**Climatic Area:** 4 - MODERATELY LOW

**\*Maximum Acres:** 59.70

**Source Name:** STOUGHTEN CREEK

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENWNW	13	7S	6E	PARK

**Period of Diversion:** MAY 1 TO NOVEMBER 1

**Diversion Means:** HEADGATE

**Ditch Name:** PFOHL DITCH

**Period of Use:** MAY 1 TO NOVEMBER 1

**\*Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	1.00		SESESE	8	7S	7E	PARK
2	34.00		SW	9	7S	7E	PARK
3	1.20		NWNW	16	7S	7E	PARK
4	23.50		NE	17	7S	7E	PARK
<b>Total:</b>	<b>59.70</b>						

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK**  
**BASIN 43B**

**Water Right Number:** 43B 194822-00 STATEMENT OF CLAIM

**Version:** 4 -- POST DECREE

**Status:** ACTIVE

**Owners:** POINT OF ROCKS RANCH INC  
3600 BUTLER RD  
REISTERSTOWN, MD 21136 4813

**Priority Date:** MAY 5, 1909

**Type of Historical Right:** FILED

**Purpose (use):** IRRIGATION

**Irrigation Type:** FLOOD

**Flow Rate:** 1.50 CFS

**Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

**Climatic Area:** 4 - MODERATELY LOW

**Maximum Acres:** 39.50

**Source Name:** ROCK CREEK

**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENSW	19	7S	7E	PARK

**Period of Diversion:** MAY 1 TO NOVEMBER 1

**Diversion Means:** HEADGATE

**Ditch Name:** STEWART DITCH

**Period of Use:** MAY 1 TO NOVEMBER 1

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	1.80		SESE	18	7S	7E	PARK
2	28.20		NE	19	7S	7E	PARK
3	9.50		NWNW	20	7S	7E	PARK
<b>Total:</b>	39.50						

**Remarks:**

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

194343-00

194822-00

194823-00

194824-00

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK**  
**BASIN 43B**

**Water Right Number:** 43B 194823-00 STATEMENT OF CLAIM  
**Version:** 4 -- POST DECREE  
**Status:** ACTIVE

**Owners:** POINT OF ROCKS RANCH INC  
3600 BUTLER RD  
REISTERSTOWN, MD 21136 4813

**Priority Date:** APRIL 24, 1906

**Type of Historical Right:** FILED

**Purpose (use):** IRRIGATION  
**Irrigation Type:** FLOOD

**Flow Rate:** 1.50 CFS

**Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

**Climatic Area:** 4 - MODERATELY LOW

**Maximum Acres:** 39.50

**Source Name:** ROCK CREEK  
**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENSW	19	7S	7E	PARK

**Period of Diversion:** MAY 1 TO NOVEMBER 1

**Diversion Means:** HEADGATE

**Ditch Name:** STEWART DITCH

**Period of Use:** MAY 1 TO NOVEMBER 1

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	1.80		SESE	18	7S	7E	PARK
2	28.20		NE	19	7S	7E	PARK
3	9.50		NWNW	20	7S	7E	PARK
<b>Total:</b>	39.50						

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**Remarks:**

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194343-00      194822-00      194823-00      194824-00

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK**  
**BASIN 43B**

**Water Right Number:** 43B 194824-00 STATEMENT OF CLAIM  
**Version:** 4 -- POST DECREE  
**Status:** ACTIVE

**Owners:** POINT OF ROCKS RANCH INC  
3600 BUTLER RD  
REISTERSTOWN, MD 21136 4813

**Priority Date:** OCTOBER 26, 1904

**Type of Historical Right:** FILED

**Purpose (use):** IRRIGATION  
**Irrigation Type:** FLOOD

**Flow Rate:** 1.50 CFS

**Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

**Climatic Area:** 4 - MODERATELY LOW

**Maximum Acres:** 39.50

**Source Name:** ROCK CREEK  
**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENSW	19	7S	7E	PARK

**Period of Diversion:** MAY 1 TO NOVEMBER 1

**Diversion Means:** HEADGATE

**Ditch Name:** STEWART DITCH

**Period of Use:** MAY 1 TO NOVEMBER 1

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	1.80		SESE	18	7S	7E	PARK
2	28.20		NE	19	7S	7E	PARK
3	9.50		NWNW	20	7S	7E	PARK
<b>Total:</b>	39.50						

**Remarks:**

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194343-00      194822-00      194823-00      194824-00